

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Federal-State Joint Board on	)	WT Docket No. 96-45
Universal Service:	)	
	)	
Review of the Definition of Universal Service	)	
	)	

**COMMENTS OF THE CELLULAR TELECOMMUNICATIONS & INTERNET  
ASSOCIATION**

The Cellular Telecommunications & Internet Association (“CTIA”)<sup>1</sup> hereby submits its comments in response to the Joint Board on Universal Service’s (“Joint Board”) request for comment on the definition of universal service.<sup>2</sup> CTIA urges the Joint Board to maintain the existing list of supported universal services and to ensure that the definition is competitively and technologically neutral. The Joint Board should not expand the current definition or take any action that would effectively exclude CMRS providers from eligibility for universal service support.

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<sup>1</sup> CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

<sup>2</sup> See *Federal-State Joint Board on Universal Service Seeks Comment on Review of the Definition of Universal Service*, Public Notice (rel. Aug. 21, 2001) (“Public Notice”).

## I. INTRODUCTION

By enacting Section 214 of the Telecommunications Act of 1996 (“Telecom Act”), Congress sought to foster local loop competition by allowing telecommunications carriers other than incumbent LECs (“ILEC”) to receive federally subsidized universal service support. The Commission established universal service rules and defined the minimum list of services that a telecommunications carrier must be able to provide to receive universal service support.<sup>3</sup> The Commission determined, among other things, that these core services “have through the operation of market choices by customers, been subscribed to by a substantial majority of residential customer.”<sup>4</sup> In addition, the Commission based its universal service rules on the principle that they should be competitively and technologically neutral. The Joint Board’s periodic review of the definition of universal service should also conform with these same principles.<sup>5</sup>

While the definition of universal service may involve an evolving level of telecommunications services, the criteria for the definition of universal service have not changed. As explained below, CTIA urges the Joint Board to maintain the current

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<sup>3</sup> Based in part upon the Joint Board’s recommendations, the Commission designated nine “core” services that are eligible for universal service support: single-party service; voice grade access to the public switched telephone network; Dual Tone Multifrequency signaling or its functional equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll limitation services for qualifying low-income consumers. *See Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45 (1997) (“First Report and Order”).

<sup>4</sup> *See* 47 U.S.C. §254(c)(1)(B). Pursuant to Section 254(c)(1) of the Telecom Act, the Joint Board and the Commission must also consider the extent to which the services “are essential to education, public health, or public safety; are being deployed in public telecommunications networks by telecommunications carriers; and are consistent with the public interest, convenience, and necessity.” *Id.* at 254(c)(1)(A)-(D).

<sup>5</sup> *See* 47 U.S.C. §151.

definition of supported services to ensure that basic telecommunications are available to all Americans who desire them.

## **II. THE CURRENT DEFINITION OF CORE SERVICES SHOULD NOT BE EXPANDED**

While there may be shortcomings in the current universal service system that impair new entry and competition, there is no need to add new services to the definition of universal service. Given the constant introduction of new technologies, it would be premature for the Joint Board to recommend adding new services where it is uncertain whether they will be supported by the market in the future. Rather than rely on regulatory fiat, the government should rely on market forces to determine which services are essential.

In addition, expanding the current definition of universal service may have the effect of significantly reducing the number of carriers able to obtain eligible telecommunications carrier (“ETC”) status, which would in turn create barriers to entry for providers of services to which most residential customers currently subscribe. Expanding the definition of “core services” would lessen the number of competitors by precluding certain ETCs that are seeking to provide services that “have through the operation of market choices by customers, been subscribed to by a substantial majority of residential customer.”<sup>6</sup> The Joint Board should be wary of expanding the definition of core services in any way that is not technology-neutral since prospective ETCs will be disqualified if they are unable to provide all of the services.

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<sup>6</sup> See 47 U.S.C. §254(b).

Neither change in the marketplace nor advances in telecommunications and information technologies merit adding new services to the list of supported services. There is no evidence that emerging technologies should be included in the definition of universal service where several competitive alternatives to wireline Internet access continue to develop, *i.e.*, wireless, cable, and satellite. The Joint Board should neither require a higher level of bandwidth capacity for universal service support nor redefine voice grade access. As explained below, the harm caused by modifying the definition of voice-grade access to facilitate the provision of advanced services would outweigh any possible benefits.

Any addition to the services included the definition of universal service would expand the demands on the universal service fund and risk the continued success of the core program. Expanding supportable services would seem unwise where many critics question the sustainability of the existing universal service fund. The Commission has recognized that adding new services to the list of supported services would require an increase in the total size of the fund, which “could adversely affect all consumers by increasing the expense of the universal service program, and, thus, increasing the basic cost of telecommunications for all.”<sup>7</sup> Moreover, given the current state of the economy, imposing unnecessary burdens upon the telecommunications industry may be detrimental to the deployment of telecommunications services.

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<sup>7</sup> See *First Report and Order* at ¶64 (advising against an overly expansive definition of core services).

### **III. THE DEFINITION OF UNIVERSAL SERVICE MUST BE COMPETITIVELY AND TECHNOLOGICALLY NEUTRAL**

In adopting the universal service rules pursuant to its authority under Section 254,<sup>8</sup> the Commission properly based its rules upon the principle of “competitive neutrality” and “technological neutrality.”<sup>9</sup> In its re-examination of the current definition of universal service, CTIA reminds the Joint Board that competition, rather than regulatory fiat, will best promote the introduction, growth, and deployment of new technologies and new services. To that end, CTIA urges the Joint Board to affirm the existing definition and allow competitive and market forces to work. The Joint Board should not broaden the current list of core services to include additional services or functionalities, such as long distance. Adding these services or functionalities to the definition, even if the services may be used by a substantial majority of residential customers, would have the effect of precluding many local service providers from offering supported universal service.

The Joint Board must avoid recommending definitional changes that would obstruct the participation of specific services or technologies since all communications common carriers should be eligible to receive universal service support for providing core services.<sup>10</sup> To ensure that CMRS providers continue to be able to qualify as ETCs

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<sup>8</sup> See 47 U.S.C. §254.

<sup>9</sup> See *id.*; *First Report and Order* at ¶49 (concluding that competitive neutrality “should include technological neutrality”).

<sup>10</sup> See 47 U.S.C. §214(e)(1)(A), (B) (stating that all common carriers are eligible to receive support if they offer the required services and advertise their availability).

under Section 214(e),<sup>11</sup> the Joint Board should recommend that the Commission avoid setting a minimum local usage requirement that would discriminate against wireless carriers. As CTIA has previously explained, the Commission must not permit a local usage requirement to be used as a means of circumventing the principle of competitive neutrality by disqualifying a technology with higher variable costs and the benefits of mobility in favor of another technology characterized by high fixed costs and the lack of mobility.<sup>12</sup>

Technological neutrality requires that the universal service definition allow participation by carriers utilizing different technologies and avoid wireline terminology that is not adaptable to comparable wireless standards. For example, the Joint Board's inquiry as to whether "soft dial tone" services are to be included in the definition of "access to emergency services"<sup>13</sup> is a wireline concept (since wireless networks do not provide "dial tones") that does not adequately consider the Commission's rules for CMRS providers, which currently require carriers to complete all 911 calls without respect to call validation.<sup>14</sup> To protect against making it more difficult for carriers to

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<sup>11</sup> See *Report and Order* at ¶145-47.

<sup>12</sup> See CTIA's Comments, *In re Federal-State Joint Board on Universal Service*, CC Docket No. 96-45 (Jan. 11, 1999) at 14. See also CTIA's Petition for Reconsideration, *In re Federal-State Joint Board on Universal Service*, CC Docket No. 96-45 (July 17, 1997) at 10.

<sup>13</sup> See Public Notice at 3.

<sup>14</sup> Rule Section 20.18(b) requires that covered CMRS licensees must "transmit all wireless 911 calls without respect to their call validation process to a Public Safety Answering Point." 47 C.F.R. §20.18(b). When the Commission imposed the rule, it analogized the new rule to the wireline soft dial tone.

qualify as ETCs, the Joint Board should act cautiously in its recommendations to alter the existing definition of universal service.

#### **IV. CONCLUSION**

CTIA respectfully requests that the Joint Board maintain the existing definition of universal service and avoid definitional changes that would impede competition or the entry of new entrants' ability to compete in the provision of universal service.

Respectfully submitted,

/s/ \_\_\_\_\_

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